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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/542,262 | Applicant(s) HOLM ET AL. | |
| | Examiner PAUL P. TRAN | Art Unit 2618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-26,28,30,31 and 34 is/are pending in the application.
- 4a) Of the above claim(s) 2, 27 29, and 32-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-26,28,30,31 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments in the remarks filed on 02/08/2011 with respect to claims 1, 3-26, 28, 30-31 and 34 have been considered, but are moot in view of the new ground(s) of rejection.

Claims Status

2. Claims 1, 3-26, 28, 30-31 and 34 are pending in this application. Claims 2, 27, 29 and 32-33 have been cancelled by the Applicant. Claim 34 is newly added to this application via last amendment.

Claimed Priority

3. The Applicant's claimed benefit date of 11/17/2003 from the PCT application, PCT/IB03/00536, has been considered and granted in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1, 7-8, 10-17, 19-24, 31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Wille” (US Pat. 7136482) in view of “Minematsu” (US Pub. 2002/0022500).

4.1. Regarding claim 1, Wille discloses an apparatus, comprising: a controller; and a memory, the controller, in conjunction with the memory, configured to cause the apparatus to perform actions { Fig. 1, ref 10, 14 , Col. 2: 21-52, a communication device includes a controller 10 and memory 14 provides progressive alert. } as follows: alert a user to an incoming call by playing a

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musical audible alert { Fig. 1, Col. 2: 38-Col. 3: 18, alerting user of an incoming call by progressively increasing tone, intensity or alert types ; Fig. 9, Col. 5: 46-Col. 6: 14}; in response to the user input being activated to answer the incoming call, cause an audio output section to terminate the musical audible alert while the musical audible alert is being played { Fig. 9, S104, Col. 5: 46-Col. 6: 14, the alert indications is progressively generated until the call is answered by user or until a terminating condition is met. It is obviously well-known to the skilled in the art that a key on the keypad is using to receive call on the mobile device. }; However, Wille fails to disclose in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert.

Minematsu discloses in response to user input by playing a replacement musical sequence as a conclusion of the musical audible alert { ABS; Fig. 1, 10, Page 2, [0021]; [0024]-[0027], the music read out from external memory 11 can be used to replace the incoming ringtone as when the user puts the incoming call on hold with the music replacement via user key input unit 7. }.

Since both Minematsu and Wille provide procedure for improving the ringtone for mobile communication device, which operates in similar environment and functional structure of the mobile communication system (ABSs); As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Minematsu's portable wireless communication device to Wille's progressive alert indications to improve the ringtone and holding

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tone for the portable telephone devices without adding cost and new special component to the device { Minematsu: Page 1: [0006] }.

4.2. Regarding Claim 7, Wille and Minematsu disclose the apparatus as claimed in claim 1, wherein the memory is configured to store a file for producing the musical audible alert { Wille: Fig. 9, ref 14, Col. 5: 44-67, memory 14 stores alert indications in the form of “.wav” or “.midi” file }.

4.3. Regarding Claim 8, Wille and Minematsu disclose the apparatus as claimed in claim 7, wherein the file comprises a series of conditional branch markers, each marker indicating a time for a conditional branch to a replacement musical sequence { Wille: Fig. 9, ref 14, Col. 5: 44-67, the progressive alert can be generated from pre-stored file from a known sequence using the alert indications. }.

4.4. Regarding Claim 10, Wille and Minematsu disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is of limited duration { Wille: ABS; Col. 2: 38-52; Fig. 9, ref 106, Col. 6: 47-51, the progressive alert indications is predefined by maximum number of alerts. }.

4.5. Regarding Claim 11, Wille and Minematsu disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is pre-determined { Wille: ABS; Col. 2: 38-52; Fig. 9, ref 106, Col. 6: 47-51, the progressive alert indications is predefined by maximum number of alerts. }.

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4.6. Regarding Claim 12, Wille and Minematsu disclose the apparatus as claimed in claim 11, wherein the replacement musical sequence is stored in a musical instrument digital interface track of a musical instrument digital interface file { Wille: Fig. 9, ref 14, Col. 5: 44-67, memory 14 stores alert indications in the form of “.wav” or “.midi” file. }.

4.7. Regarding Claim 13, Wille and Minematsu disclose the apparatus as claimed in claim 1 wherein the audio output section is configured to terminate the musical audible alert by introducing and playing any one of a plurality of pre-determined replacement musical sequences { Minematsu: Fig. 1, Page 2: [0019]; [0023]-[0026], the ringtone is replaced with music melody program stored in external memory 11, when user performs the operation of holding with key input unit 7 }.

4.8. Regarding Claim 14, Wille and Minematsu disclose the apparatus as claimed in claim 13, wherein each individual one of the plurality of pre-determined replacement musical sequences is associated with a particular portion of the musical audible alert { Wille: Col. 3: 7-32, the progressive ringtone can be programmed with different burst of ringtone successive followed by a pause between different bursts. }.

4.9. Regarding Claim 15, Wille and Minematsu disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is automatically

generated { Fig. 1, Col. 2: 38-52, the progressive alert indication is generated and controlled by the controller 10 of the device. }.

4.10. Regarding Claim 16, Wille and Minematsu disclose the apparatus as claimed in claim 15, wherein the generated replacement musical sequence is dependent upon information characterizing the musical qualities of the musical audible alert { Minematsu: Page 2: [0026], the high tone quality of music program also defines the quality of ringtone via its diversity and high tone quality of the music programs. }.

4.11. Regarding Claim 17, Wille and Minematsu disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence varies any one or more of: the arrangement of the musical audible alert; the music of the musical audible alert; the tempo of the musical audible alert; and the volume of the musical audible alert { Wille: Figs. 5-6, Col. 4: 63-Col. 5: 22, replacement of progressive alert indication can be done using loudness, repetition, length, etc. or combination of multiple audio progression as depicted in Fig. 6. }.

4.12. Regarding Claim 19, Wille and Minematsu disclose the apparatus as claimed in claim 1 operable as a mobile telephone { Wille: Col. 2, 29-37 }.

4.13. Regarding Claims **20, 22 and 31**, Wille and Minematsu disclose a mobile telephone, comprising: an audio output section configured to alert a user to an incoming call by playing a musical audible alert { Fig. 1, ref 10, 14, 20, Col. 2: 21-52, a communication device includes a controller 10, memory 14 and audio

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interface 20 for providing progressive musical tone alert. Col. 2: 38-Col. 3: 18, alerting user of an incoming call by progressively increasing tone, intensity or alert types ; Fig. 9, Col. 5: 46-Col. 6: 14. }; a user input configured to cause an incoming call to be answered { Fig. 9, S104, Col. 5: 46-Col. 6: 14, the alert indications is progressively generated until the call is answered by user via keypad 26 or until a terminating condition is met. It is obviously well-known to the skilled in the art that a key on the keypad is using to receive call on the mobile device. }; , However, Wille fails to disclose a controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section to terminate the musical audible alert while the musical audible alert is being played-by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert.

Minematsu discloses controller configured, responsive to the user input being activated to answer an incoming call, to control the audio output section to terminate the musical audible alert while the musical audible alert is being played by playing a replacement musical sequence, where the replacement musical sequence is played as a conclusion to the musical audible alert { ABS; Fig. 1, 10, Page 2, [0021]; [0024]-[0027], the music read out from external memory 11 is used to replace the incoming ringtone as when the user puts the incoming call on hold with the music replacement via user key input unit 7. }.

Since both Minematsu and Wille provide procedure for improving the ringtone for mobile communication device, which operates in similar environment and functional structure of the mobile communication system (ABSs); As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Minematsu's portable wireless communication device to Wille's progressive alert indications to improve the ringtone and holding tone for the portable telephone devices without adding cost and new special component to the device { Minematsu: Page 1: [0006] }.

4.14. Regarding Claims 21 and 23, Wille discloses the mobile telephone as claimed in claim 20, further comprising a radio transceiver wherein the controller, responsive to the user input, controls the radio transceiver, after a delay, to accept the incoming telephone call, the controller being configured to terminate the musical audible alert and begin playing the replacement musical sequence if the user input has not been activated and the musical audible alert has played beyond a predetermined threshold duration, the controller being configured to terminate the musical audible alert { Wille: Fig. 1, Col. 2: 21-Col. 3: 18, alerting user of an incoming call by progressively increasing tone, intensity or alert types; Fig. 9, Col. 5: 46-Col. 6: 14. Fig. 9, S104, Col. 5: 46-Col. 6: 14, the alert indications is progressively generated until the call is answered by user or until a terminating condition is met such as upon reaching a predefined maximum number of alerts. }. However, Wille fails to disclose begin playing the replacement musical sequence if the user input has been activated { Minematsu:

Fig. 1, ref 11, Page 2, [0021]; [0024]-[0027], the music read out from external memory 11 is used to replace the incoming ringtone as when the user puts the incoming call on hold with the music replacement via user key input unit 7. }.

4.15. Regarding Claim 24, Wille and Minematsu disclose the memory embodying a data file as claimed in claim 22, the data file further comprising the musical audible alert for the electronic device { Wille: Col. 2, 29-37 }.

4.16. Regarding Claim 34, Wille and Minematsu disclose the apparatus as claimed in claim 1, wherein, if a user input has not been activated, then if the musical audible alert has played beyond a predetermined threshold duration, the musical audible alert is terminated, wherein, if the user input has been activated, the musical audible alert is terminated { Wille: Col. 2: 38-52, the controller terminates the progressive alert indications 21 upon reaching a predefined maximum number of alerts. }.

5. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Wille” (US Pat. 7136482) in view of “Minematsu” and further in view of Yamaki et al. (US Pat. 7067731, hereinafter “Yamaki”).

5.1. Regarding Claim 3, Wille and Minematsu disclose the apparatus capable of playing a musical alert when an incoming call is arrived and when user accepts the call via user input the musical ringtone is replaced with a musical

sequence as claimed invention above (ABSs); However, Wille and Minematsu fail to disclose wherein the audio output section comprises a synthesizer.

Yamaki discloses wherein the audio output section comprises a synthesizer { Yamaki: Fig. 1, ref 19, Page 3: [0035], a speech processor 19 encodes/decodes speech signals; Page 4: claim 8}.

Similarly to Wille and Minematsu, Yamaki discloses apparatus and method for providing sound effects to improve the sound quality for the monotonous ringtone for mobile communication device (ABSs); As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yamaki's hold sound chorus-effects to Wille's and Minematsu's progressive alert communication device to improve sound quality to the portable telephone devices (Yamaki: Col. 1: 24-39).

5.2. Regarding Claim 4, Wille, Minematsu and Yamaki disclose the apparatus as claimed in claim 3, wherein the synthesizer processes a data stream representative of the musical audible alert in real time { Yamaki: Figs. 2a-b, Fig. 3, Page 2: [0026]-[0028], the musical tone is modified in real time using selector 4 and adder 8 to create waveform wc1. }.

5.3. Regarding Claim 5, Wille and Minematsu disclose the apparatus as claimed in claim 4, wherein the audio output section is arranged to vary the data stream in real time to introduce the replacement musical sequence {Yamaki:

Figs. 2a-b, Fig. 3, Page 2: [0026]-[0028], the musical tone is created by varying inputs frequency waveform in real time using selector 4 and adder 8. }.

5.4. Regarding Claim 6, Wille and Minematsu disclose the apparatus as claimed in claim 3, wherein the synthesizer is polyphonic { Wille: Fig. 9, ref 14, Col. 5: 44-67, memory 14 stores alert indications in the form of “.wav” or “.midi” files. Yamaki: Fig. 1, Page 1: [0020]-[0023], the apparatus creates musical or digital tone signals; polyphonic }.

6. Claims 18 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Wille” in view of “Minematsu” and further in view of “Nagasawa” ((US Pat. 6707908).

6.1. Regarding Claim 18, Wille and Minematsu disclose an apparatus device capable of terminating the musical melodies to a ringtone being played during an incoming call as claimed invention above (ABS); However, Wille and Minematsu fail to disclose, wherein the replacement musical sequence when played fades out the musical audible alert while it is being played.

Nagasawa discloses wherein the replacement musical sequence when played fades out the musical audible alert while it is being played { Nagasawa: Figs. 5a-b, Col. 6: 16-23 }.

Similarly to Wille and Minematsu, Nagasawa provides replacements of the monotonous incoming call ringtone with the musical melodies of sound effects and quality for the portable telephones {ABS; Col. 10: 11-20}. As a result, it

would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Nagasawa's medley melody to Wille's and Minematsu's mobile communication device to improve the distinguishing ability of the incoming call ringtone on the communication device {Nagasawa: Col. 1: 50-55. }.

6.2. Regarding Claim 25, Wille and Minematsu as claimed in claim 24 disclose an apparatus device embodying a data file capable of terminating the musical melodies to a ringtone being played during an incoming call as claimed invention above (ABS); However, Wille and Minematsu fail to disclose the data file further comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence.

Nagasawa discloses the memory embodying a data file further comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence { Nagasawa: Fig. 2, ref 13a-e and in each melody contains a time mark as illustrated in Fig. 4, ref 25 with scan time or Figs. 5A-B, Col. 5: 63-Col. 6: 15, with T1 as scan time and T2 as fade-in/fade-out time }.

Similarly to Wille and Minematsu, Nagasawa provides replacements of the monotonous incoming call ringtone with the musical melodies of sound effects and quality for the portable telephones {ABS; Col. 10: 11-20}. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Nagasawa's medley melody to Wille's and Minematsu's mobile communication device to improve the distinguishing ability of

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the incoming call ringtone on the communication device {Nagasawa: Col. 1: 50-55. }.

7. Claim 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Wille” (US Pat. 7136482) in view of “Nagasawa” ((US Pat. 6707908).

7.1. Regarding Claim **26**, Wille discloses a memory embodying a musical data file, configured to produce a musical audible alert in an electronic device { Fig. 1, ref 10, 14, Col. 2: 21-52, a communication device comprises a controller 10 and memory 14 for storing condition progressive alert musical data files as specified in Col. 5: 34-43 } , the musical data file comprising a plurality of conditional, each of which is associated with a replacement musical sequence to be played to terminate the musical audible alert while it is being played by playing the replacement musical as a conclusion to the musical audible alert beginning at that time position of the conditional branching marker within the musical data file only when a condition associated with the conditional branching marker has been fulfilled { Figs. 5-6, Col. 4: 63-Col. 5: 6. Fig. 9, Col. 5: 44-Col. 6: 50, the process of generating a sequence of musical alert indications by generating a progression of number of alert indications in successive order as predefined sequence in memory program. }. However, Wille fail to disclose a plurality of conditional branching markers each of which is associated with a replacement musical sequence to be played to terminate the musical audible alert while it is being played by playing the replacement musical as a conclusion to the musical audible

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alert beginning at that time position of the conditional branching marker within the musical data file only when a condition associated with the conditional branching marker has been fulfilled.

Nagasawa discloses the musical data file comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence to be played to terminate the musical audible alert while it is being played by playing the replacement musical as a conclusion to the musical audible alert beginning at that time position of the conditional branching marker within the musical data file only when a condition associated with the conditional branching marker has been fulfilled { Fig. 1, ref 3, 12 , Col. 4: 14-29, 30-55, in a portable telephone device, a control part 3 and memory 12 are configured to create medley melodies; Figs. 5a-b, Col. 5: 42-Col. 6: 23, the medley reproduction content is varied by changing three components, scan time periods, fade-in/fade-out time and number of piece of music containing in the medley. During the replay, the contents of replacement music is played in predetermined sequence by placing each music replacement sequences in the order as programmed during the reproduction time followed the memory markers as illustrated in Fig. 2. Col. 4: 41-Col. 5: 13, until all the condition associated with that melody definition is completed or fulfilled. }.

Both Wille and Nagasawa teachings provide similar process of generating sequence of musical alert or melodies for replacing the ringtone of an incoming call on the telephone device { ABSs }. As a result, it would have been obvious to

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one having ordinary skill in the art at the time the invention was made to combine Nagasawa's medley melody to Wille's mobile communication device to improve the distinguishing ability of the incoming call ringtone on the communication device {Nagasawa: Col. 1: 50-55. }.

8. Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Wille" in view of "Minematsu" and further in view of Yoon (US Pub. 20020052224, hereinafter "Yoon").

8.1. Regarding Claim 9, Wille and Minematsu disclose an apparatus device capable of terminating the musical melodies to a ringtone being played during an incoming call as claimed invention above (ABS); However, Wille and Minematsu fail to disclose the apparatus further comprising a radio transceiver configured to download data representing the replacement musical sequence.

Yoon discloses apparatus further comprising a radio transceiver configured to download data representing the replacement musical sequence (Yoon: Page 1: [0006], the conventional method downloads melodies from providing server via Internet and stores it in the memory).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Wille's and Minematsu's mobile communication device to improve the convenience to easily set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).

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8.2. Regarding Claim **28**, Wille and Minematsu disclose an apparatus, comprising: a controller; and a memory configured to store a plurality of replacement musical sequences, the controller, in conjunction with the memory, configured to cause the apparatus to perform actions as follows: detect answering of the incoming call { Fig. 1, Col. 2: 38-Col. 3: 18, alerting user of an incoming call by progressively increasing tone, intensity or alert types ; Fig. 9, Col. 5: 46-Col. 6: 14. Fig. 9, S104, Col. 5: 46-Col. 6: 14, the alert indications is progressively generated until the call is answered by user or until a terminating condition is met. It is obviously well-known to the skilled in the art that a key on the keypad is using to receive call on the mobile device. }; However, Wille fails to disclose in response to the incoming call being answered, terminate a musical audible alert for the incoming call while the musical audible alert is being played at the apparatus by playing a replacement musical sequence from the plurality of replacement musical sequences as a conclusion of the musical audible alert, the replacement musical sequence being downloadable from a server to the apparatus via a communication network-

Minematsu discloses in response to the incoming call being answered, terminate a musical audible alert for the incoming call while the musical audible alert is being played at the apparatus by playing a replacement musical sequence from the plurality of replacement musical sequences as a conclusion of the musical audible alert { ABS; Fig. 1, 10, Page 2, [0021]; [0024]-[0027], the music read out from external memory 11 can be used to replace the incoming

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ringtone as when the user puts the incoming call on hold with the music replacement via user key input unit 7. }.

Since both Minematsu and Wille provide procedure for improving the ringtone for mobile communication device, which operates in similar environment and functional structure of the mobile communication system (ABSs); As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Minematsu's portable wireless communication device to Wille's progressive alert indications to improve the ringtone and holding tone for the portable telephone devices without adding cost and new special component to the device { Minematsu: Page 1: [0006] }. However, Wille and Minematsu fail to disclose the replacement musical sequence being downloadable from a server to the apparatus via a communication network.

Yoon discloses the replacement musical sequence being downloadable from a server to the apparatus via a communication network { Yoon: Page 1: [0006], the conventional method downloads melodies from providing server via Internet and stores it in the memory }.

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Wille's and Minematsu's mobile communication device to improve the convenience to easily set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).

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9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Wille” in view of “Minematsu” and further in view of Catto et al. (US Pat. 4032712, hereinafter “Catto”).

9.1. Regarding Claim 30, Wille discloses a method, comprising: determining a call is incoming; playing by a controller an musical audible alert { Fig. 1, Col. 2: 38-Col. 3: 18, alerting user of an incoming call by progressively increasing tone, intensity or alert types ; Fig. 9, Col. 5: 46-Col. 6: 14.} and determining if the incoming call has been answered { Fig. 9, S104, Col. 5: 46-Col. 6: 14, the alert indications is progressively generated until the call is answered by user or until a terminating condition is met. It is obviously well-known to the skilled in the art that a key on the keypad is using to receive call on the mobile device. }; However, Wille fails to disclose setting a timer when the incoming call is determined, determining the incoming call has been answered; if it is determined that the incoming call has not been answered, then determining if the timer has timed out; if it is determined the timer has timed out or if it is determined that the call has been answered, then playing a replacement musical sequence as a conclusion of the musical audible alert, thereby terminating the playing of the musical audible alert.

Minematsu discloses if it is determined that the incoming call has not been answered, then determining if it is determined that the call has been answered, then playing a replacement musical sequence as a conclusion of the musical audible alert, thereby terminating the playing of the musical audible alert { Fig. 1,

10, Page 2, [0021]; [0024]-[0027], the music read out from external memory 11 can be used to replace the incoming ringtone as when the user puts the incoming call on hold with the music replacement via user key input unit 7. }.

Since both Minematsu and Wille provide procedure for improving the ringtone for mobile communication device, which operates in similar environment and functional structure of the mobile communication system (ABSs); As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Minematsu's portable wireless communication device to Wille's progressive alert indications to improve the ringtone and holding tone for the portable telephone devices without adding cost and new special component to the device { Minematsu: Page 1: [0006] }. However, Wille and Minematsu fail to teach setting a timer when the incoming call is determined, if it is determined that the incoming call has not been answered, then determining if the timer has timed out; then playing a replacement musical sequence as a conclusion.

Catto discloses a setting a timer when the incoming call is determined, if it is determined that the incoming call has not been answered, then determining if the timer has timed out; then playing a replacement musical sequence as a conclusion { Col. 4: 1-23, the telephone answering system includes a timer 251 for announcement outgoing message. When an incoming call is not been answering within a period of time, the timer is timeout and an outgoing message announcement is sent out. }.

Catto teaching is in the same field of endeavor as Wille and Minematsu for providing audio response to an incoming call for a communication device { ABS); As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Catto's answering device to Wille's and Minematsu's progressive alert phone system to improve the reproduction of a replacement announcement {Catto: Col. 2: 1-12}.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL P. TRAN whose telephone number is 571-270-1944 (FAX. 571-270-2944). The examiner can normally be reached on Monday to Thursday 8:00AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAY MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Wendell/
Primary Examiner, Art Unit 2618

/PAUL P TRAN/
Examiner, Art Unit 2618

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